

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**BLANEY EARL BARNES,**

**Plaintiff,**

v.

**OFFICER ALVAREZ,**

**Defendant.**

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Civil Action No. **3:19-cv-630-L**

**ORDER**

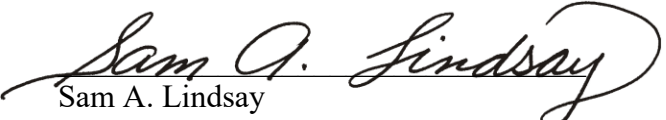
On July 13, 2020, United States Magistrate Judge David L. Horan entered the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 37), recommending that the court grant Defendant SRT Officer Oscar Alvarez’s (“Defendant”) Motion for Summary Judgment on Qualified Immunity (Doc. 23) and dismiss this action with prejudice. Specifically, Magistrate Judge Horan determined that video recordings submitted as evidence by Defendant “completely discredit the version of facts alleged by Barnes to the extent that his complaint states a claim of excessive force.” Report 11. He further determined that “the facts depicted by the videos reflect that the officers restraining Barnes (including Officer Alvarez) acted objectively reasonable considering the facts and circumstances they confronted.” *Id.* No Objections to the report were filed.

Having reviewed the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the Magistrate Judge are correct, and **accepts** them as those of the court. The court also determines that Officer Alvarez used only that amount of force necessary to restore and maintain order in the jail, and, once Mr. Barnes was under control, the use

of force ceased, as required by law. Accordingly, the court **grants** Defendant's Motion for Summary Judgment on Qualified Immunity (Doc. 37) and **dismisses with prejudice** this action.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.21 (5th Cir. 1997). Based on the Report, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**It is so ordered** this 12th day of August, 2020.

  
Sam A. Lindsay  
United States District Judge